

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

RECEIVED  
MAR 12 1999  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
Amendment of Section 73.622(b) )  
Digital Television Table of Allotments )  
(Salt Lake City, Ogden and Provo, UT) )

RM \_\_\_\_\_

To: Chief, Allocations Branch  
Policy and Rules Division

PETITION FOR RULEMAKING

Eight television stations in the Utah market, including three noncommercial stations, have developed an engineering plan that would permit them to conduct their digital operations from a joint transmitting tower.<sup>1</sup> These eight stations (collectively "DTV Utah")<sup>2</sup> hereby request that the Commission promptly institute a rulemaking proceeding to amend Section 73.622(b), the DTV Table of Allotments ("DTV Table"), to substitute Channel \*44 for Channel \*39 as the reserved noncommercial educational ("NCE") DTV channel assigned to KBYU-TV; to substitute Channel 46 for Channel 27 as the DTV channel assigned to KJZZ-TV; to substitute Channel \*36 for Channel \*35 as the reserved NCE DTV channel assigned to KULC; and to substitute Channel 48 for Channel 17 as the DTV channel assigned to KUWB.

<sup>1</sup> The eight stations involved in the joint tower project are NCE Station KBYU-TV (Provo, UT); Station KJZZ-TV (Salt Lake City, UT); Station KSL-TV (Salt Lake City, UT); Station KTVX (Salt Lake City, UT); NCE Station KUED (Salt Lake City, UT); NCE Station KULC (Ogden, UT); Station KUTV (Salt Lake City, UT); and Station KUWB (Ogden, UT).

<sup>2</sup> The licensees of these eight stations are Brigham Young University (licensee of NCE Station KBYU-TV); Larry H. Miller Communications Corp. (licensee of Station KJZZ-TV); Bonneville Holding Company (licensee of Station KSL-TV); United Television, Inc. (licensee of Station KTVX); University of Utah (licensee of NCE Stations KUED and KULC); KUTV Associates (licensee of Station KUTV); and ACME Television Licenses of Utah, LLC (proposed licensee of Station KUWB).

No. of Copies rec'd 0+4  
List A B C D E  
MMB

1. DTV Utah's joint tower project will advance the goals of the DTV transition and the public interest. In the *Fifth Report and Order* in the DTV allotments/assignments proceeding,<sup>3</sup> the Commission stated that "some licensees may find it beneficial to develop partnerships with others to help make the most productive and efficient use of their channels, and *we will look with favor on such arrangements.*"<sup>4</sup> The Commission explained that such arrangements would promote the transition and the public interest:

Broadcasters may find it useful to work with other broadcasters or others who have special expertise in exploiting digital technology. Parties could come together for the sharing of facilities, costs, and equipment, the development and provision of programming and service offerings, access to capital and financing, the establishment of business plans, and the like. Such arrangements will aid both broadcaster and public, by helping the broadcaster achieve the most competitive and beneficial business strategy and by ensuring for the public the best use of the digital spectrum, including not only the most efficient use of the spectrum but also the greatest array of valuable services.<sup>5</sup>

The DTV Utah joint tower project achieves these efficiencies and public interest benefits through just the sort of cooperative business arrangement contemplated and encouraged by the Commission.

2. Developing a workable joint tower plan for eight television stations in the Utah market has required a tremendous investment of time, financial resources, engineering

---

<sup>3</sup> *Advanced Television Systems and Their Impact upon the Existing Television Broadcasting Service*, Fifth Report and Order, MM Docket No. 87-268, FCC 97-116, 12 FCC Rcd. 12809 (adopted Apr. 3, 1997).

<sup>4</sup> *Id.* at 12834 (emphasis added).

<sup>5</sup> *Id.* See also *Additional Application Processing Guidelines for Digital Television (DTV)*, Public Notice (August 10, 1998) at 11 ("[T]he Commission will seek to accommodate petitions to amend the DTV Table to modify allotments based on negotiated agreements that cannot be handled in the application process; that is, involving channels not allotted to any of the parties to the agreement. Once the table is amended through the allocation process to reflect an agreement, applications for the allotments would not be subject to the filing of competing applications.")

expertise and ingenuity. The success of the joint tower project depends upon careful engineering and technical coordination among the stations. In particular, an adjustment in the DTV channels assigned to the stations is necessary to resolve potential interference problems and engineering obstacles that otherwise would preclude co-location of these eight stations. These adjustments are specified in the DTV Utah Channel Plan (the "Plan"), attached as Exhibit A hereto. The Plan consists of three interdependent components, as more fully explained in the attached Engineering Statement (Exhibit B).

a. Three stations, KSL-TV, KTVX and KUED, do not require channel changes. Under the Plan, these stations will retain the DTV channels allotted/assigned to them in the DTV Table. Stations KTVX and KUED will address any facilities or site changes required as a result of the joint tower project in their DTV applications. The joint tower would be located at KSL-TV's current NTSC site. KSL-TV is in the process of finalizing its application, which will specify tower facilities that will support not only its own operations, but also those of the other seven stations involved in the joint tower project.<sup>6</sup> Although the proposed facilities will not pose any interference problems, the KSL-TV application will not qualify for checklist treatment. Because of the narrow construction window due to weather conditions at the site, however, at least the KSL-TV application needs to be granted by early May of this year. The DTV site and facilities proposals of KSL-TV, KTVX and KUED comply with the Commission's interference criteria and can be accomplished through the routine DTV application process, without a rulemaking or other special processing. Therefore, while

---

<sup>6</sup> A notice of proposed construction for the joint tower was filed with the FAA on February 2, 1999 (Aeronautical Study No: 99-ANM-0178-OE).

these changes are an essential component of the DTV Utah joint tower package and are supported by the signatories to this petition, they are not a part of this rulemaking petition. Because of the highly interdependent nature of the package, however, these stations have a large stake in this rulemaking and are signatories to this petition.

b. The joint tower package also includes, pursuant to Sections 73.622(c) and 73.623(f) of the Commission's rules, an intra-market channel swap between two stations in the DTV Utah group – KUTV and NCE Station KULC.<sup>7</sup> Specifically, KUTV is swapping its DTV Channel 35 with KULC's DTV Channel \*34, establishing the following allotments/assignments: KUTV (DTV Channel 34) and KULC (DTV Channel \*35).<sup>8</sup> This will permit KULC, in turn, to exchange Channel \*35 for Channel \*36 in this rulemaking. *See* Exhibit A.<sup>9</sup> This proposal would have no adverse impact on the noncommercial educational service provided to the Utah market, because Channel \*36 would be substituted under the Plan as a new reserved NCE allotment/assignment. Although the new DTV channel assignment for KUTV accomplished by this channel swap is not the subject of this rulemaking petition, it is a part of the overall package and thus KUTV is a signatory to this petition.

---

<sup>7</sup> *See also Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service*, Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order, FCC 98-24, 13 FCC Rcd. 7418, 7477-78 (rel. Feb. 23, 1998).

<sup>8</sup> These changes may be accomplished without a rulemaking petition, by the stations filing appropriate DTV applications. 47 C.F.R. §§ 73.622(c) and 73.623(f).

<sup>9</sup> The channel swap between KULC and KUTV is contingent upon the successful outcome of this proceeding – if the Commission does not ultimately grant the new allotments/assignments requested herein, KULC and KUTV will retain the DTV allotments/assignments currently reflected in the DTV Table (*i.e.*, KULC will retain Channel \*34 and KUTV will retain Channel 35).

c. Four stations – KBYU-TV, KJZZ-TV, KULC, and KUWB – require DTV allotments/assignments that must be added to the DTV Table, in return for which these stations' current DTV allotments/assignments will be deleted from the Table and therefore made available for others – new DTV applicants, LPTVs and translators. These changes do require rulemaking and hence these four stations are signatories to this petition.

3. The four stations for whom DTV Utah seeks new allotments/assignments in this petition have the following channel pairings: KBYU-TV (NTSC \*11/DTV \*39); KJZZ-TV (NTSC 14/DTV 27); KULC (NTSC \*9/DTV \*35);<sup>10</sup> and KUWB (NTSC 30/DTV 17).<sup>11</sup> DTV Utah requests that the Commission amend the DTV Table to allot Channel \*44 to Provo, Utah and assign it as the reserved NCE DTV channel for KBYU-TV; to allot Channel 46 to Salt Lake City, Utah and assign it as the DTV channel for KJZZ-TV; to allot Channel \*36 to Ogden, Utah and assign it as the reserved NCE DTV channel for KULC; and to allot Channel 48 to Ogden, Utah and assign it as the DTV channel for KUWB. These four new DTV allotments/assignments would replace these stations' existing DTV channels – Channels 17, 27, \*35 and \*39 – which would be deleted from the DTV Table. As shown in Exhibit B, the requested DTV channels (Channels \*36, \*44, 46, 48) can be substituted for the stations' existing

---

<sup>10</sup> As explained above and shown in Exhibit A, KULC has agreed to swap its initial DTV allotment/assignment (Channel \*34) with KUTV's Channel 35 DTV allotment/assignment, contingent on the successful outcome of this rulemaking. Because of this swapping arrangement, KULC's channel pairing will be NTSC \*9/DTV \*35.

<sup>11</sup> KUWB has agreed to swap its initial DTV allotment/assignment (Channel 29) for Channel 17, through a private contract with station KUPX (NTSC 16, Provo). Both KUWB and KUPX have filed applications to accomplish this swap (BPCDT-981116KE, BPCDT-980724KI), but these applications are still pending at the Commission. For purposes of this rulemaking petition, DTV Utah is considering KUWB's current channel pairing to be NTSC 30/DTV 17.

channels (Channels 17, 27, \*35 and \*39), allotted to the communities specified above, and assigned to the existing licensees in compliance with Section 73.623 of the Commission's Rules. These four DTV allotments/assignments, indeed all eight, would have reference coordinates at KSL-TV's current site at Farnsworth Peak (40-39-34 N, 112-12-06 W) and would operate at the following heights and powers: KBYU-TV (DTV \*44, 1245 m HAAT, 403.0 kW ERP); KJZZ-TV (DTV 46, 1255 m HAAT, 200.0 kW ERP); KULC (DTV \*36, 1245 m HAAT, 304.0 kW ERP); and KUWB (DTV 48, 1245 m HAAT, 200.0 kW ERP).

4. The above-described changes will benefit the public by facilitating the joint tower project, which in turn will produce economies and efficiencies that will reduce the burden of the DTV transition on all of the stations involved in the project and will speed the initiation of digital services by these stations. The Plan makes it possible for eight full power digital television stations to serve their communities of license from a single tower site.<sup>12</sup> Because of their highly interdependent nature, it is essential that the Commission consider the proposed amendments to the DTV Table requested in the rulemaking as a package. The joint tower project cannot proceed unless all of the requested amendments to the DTV Table are made. Thus, if the Commission is unable to grant all of the above-requested rulemaking changes, the Commission should consider this petition withdrawn and terminate the rulemaking proceeding. In that event, the DTV Utah stations would retain their current DTV allotments/assignments.

---

<sup>12</sup> DTV Utah notes that it invited all full power stations in the Salt Lake City area to participate in the joint tower project, but two stations – KUPX (Provo, UT) and KSTU (Salt Lake City, UT) – chose not to participate.

5. As explained in detail in Exhibit B, the Plan accommodates all eight stations with only two antennas, permitting a sleek, stable, safe, efficient and economical tower design. Use of the stations' existing channel assignments at the joint tower site would create interference problems among the DTV Utah stations and with other stations in the Utah market, and would create a host of other technical problems.

6. Use of the stations' existing DTV channels would require at least three antennas and would create a number of difficult and uncertain technical obstacles that would be resolved by the Plan. First, the FCC DTV channel plan includes three adjacent-channel situations within the DTV Utah group (Channels \*34 and 35, Channels 38 and \*39, and Channels \*39 and 40). As a practical matter, these DTV adjacencies might preclude even a three-antenna joint tower implementation. The Plan would eliminate these adjacencies and create an elegant system whereby the eight stations in the DTV Utah group would occupy every other DTV channel from Channel 34 to Channel 48. One antenna would support Channels 34, 38, \*42 and 46, while the other would support Channels \*36, 40, \*44, and 48. This carefully designed, symmetrical system would avoid interference obstacles presented by the current channel allotments/assignments, and would facilitate an optimized tower structure.

7. Second, even if a three-antenna system could be designed to accommodate the stations' current channel assignments, engineering studies to date conclude that certain characteristics of the joint tower site preclude the construction of a three-antenna tower. The peak at the joint tower site is very narrow, preventing the use of a guyed system. A three-antenna tower would be too heavy to accommodate the 155 mile-per-hour wind-loading required at that site. In addition, the stand-alone joint tower will require a complex pendulum system to

maintain its balance – otherwise, reception will be impaired. Based on current studies, three antennas would render the joint tower project infeasible.

8. Finally, the joint tower project provides a host of other technical benefits. Under the Plan, there will be less interference, less wasted power, less risk of multipath problems, and more tightly shaped coverage contours providing more space, potentially, for translators and low power television stations ("LPTVs"). The Plan can be implemented quickly, efficiently, and cost-effectively. Without the appropriate channel allotments/assignments, however, these benefits cannot be realized. Therefore, the success of the joint tower project depends on the Commission's granting the DTV allotment/assignment changes specified by the Plan.

9. Co-location of the DTV Utah stations would serve the public interest in a number of important respects. It would facilitate the speedy transition to DTV by reducing the transactional, construction and operating costs for all eight stations. It would enable those stations with later build-out deadlines to initiate digital operations earlier.<sup>13</sup> Co-location on a single tower would result in the construction of fewer digital towers in Utah, and would facilitate DTV reception from rooftop antennas oriented towards the joint tower. This, in turn, will facilitate consumer interest in and access to DTV services. Early adopters who orient their DTV antennas towards the joint tower will enjoy not one, but eight digital television stations.

10. At the same time, the Plan would not result in harmful interference to the NTSC and DTV operations of other full power stations in the Utah market. *See* Exhibit B. In accordance with the Commission's policy, DTV Utah has also carefully taken into account the

---

<sup>13</sup> This factor is particularly pertinent here because of the short construction period (mid-May to mid-October) due to the extreme weather conditions at the proposed site.



impact of its proposal on LPTVs and translators. DTV Utah has worked closely with the translator community to ensure that the Plan will not have an adverse impact. Indeed, all of the translator licensees in the State of Utah support a master translator plan, designed around the DTV Utah Plan, which would preserve every translator in the State.<sup>14</sup> DTV Utah also has examined the impact of the Plan on the LPTV community, and is taking steps to ensure that any LPTVs that might be adversely impacted by the Plan are reasonably accommodated.

11. Upon allotment and assignment of the new DTV channels requested in this petition, KBYU-TV, KJZZ-TV, KULC and KUWB will each promptly submit (or, if applicable, amend) an application for a construction permit for its DTV station on the newly allotted/assigned channel specified in the Plan.<sup>15</sup> Upon grant of the construction permit, each station will complete construction of its digital facilities and will begin digital operations in a timely manner.

12. DTV Utah hereby respectfully requests that the Commission expeditiously issue a notice of proposed rulemaking incorporating the proposal set forth in this petition and, promptly after receiving comments and reply comments, adopt the four proposed amendments to the DTV Table.<sup>16</sup> DTV Utah plans to lead the transition to digital television, for example, by

---

<sup>14</sup> On February 17, 1999, a package of approximately 135 displacement applications were filed to effectuate this master translator plan. The master translator plan is supported by the State of Utah.

<sup>15</sup> Because the Commission both allots and assigns digital channels based on rulemaking petitions (unlike in analog where it only allots the requested channels and others may apply for them), we have been assured that the petitioners here do not put their DTV channels at risk by virtue of filing this petition. The DTV allotments/assignments provided for the petitioners in the *Sixth Report and Order* will not be deleted until the new DTV channels are, with finality, allotted and assigned to them. See *Advanced Television Systems and Their Impact upon the Existing Television Broadcasting Service*, Sixth Report and Order, MM Docket No. 87-268, FCC 97-115, 12 FCC Rcd. 14588 (adopted Apr. 3, 1997).

<sup>16</sup> A proposed Notice of Proposed Rule Making is attached for the Commission's convenience. See Exhibit C. A copy of the Notice has also been provided to the Commission on computer disk.

covering the Salt Lake Winter Olympics. To accomplish this goal it needs early certainty with respect to the stations' DTV channel assignments. Because each channel assignment in the Plan is dependent on the others, authorization for the changes requested herein is critical to *all* of the DTV Utah stations as they prepare for the DTV transition, not just for those whose allotments/assignments are directly addressed. As KSL-TV presses forward with its construction permit so that it may begin testing DTV operations by October 15, 1999, it needs assurances that it will be sharing its tower and transmitting equipment with seven other full power television stations. The DTV Utah stations also are confronted with harsh weather conditions that leave only a narrow window for tower construction each year. Quick and favorable resolution of this rulemaking petition will permit the DTV Utah joint tower project to proceed aggressively, will serve the public interest, and will set an example for other markets as they transition to digital television services.


WHEREFORE, DTV Utah hereby respectfully requests that the Commission amend Section 73.622(b), the DTV Table of Allotments, to substitute Channel \*44 for Channel \*39 as the DTV channel assigned to KBYU-TV; to substitute Channel 46 for Channel 27 as the DTV channel assigned to KJZZ-TV; to substitute Channel \*36 for Channel \*35 as the DTV channel assigned to KULC; and to substitute Channel 48 for Channel 17 as the DTV channel to be assigned to KUWB.

Respectfully submitted,

/s/ Kenneth E. Satten

Kenneth E. Satten  
Camille Hansen  
WILKINSON BARKER KNAUER &  
QUINN, L.L.P.  
2300 N Street, N.W.  
Washington, D.C. 20037-1128  
(202) 783-4141 – Phone  
(202) 783-5851 – Fax

*Attorneys for KBYU and KSL*



Jonathan D. Blake  
Jennifer A. Johnson  
COVINGTON & BURLING  
1201 Pennsylvania Avenue, N.W.  
P.O. Box 7566  
Washington, D.C. 20044-7566  
(202) 662-6000 – Phone  
(202) 662-6291 – Fax

*Attorneys for KUED and KULC*

/s/ Lewis J. Paper

Lewis J. Paper  
Harold K. McCombs  
Bryan T. McGinnis  
DICKSTEIN SHAPIRO MORIN &  
OSHINSKY LLP  
2101 L Street, N.W.  
Washington, D.C. 20037-1526  
(202) 785-9700 – Phone  
(202) 887-0689 – Fax

*Attorneys for KUWB*

/s/ Howard A. Topel

Howard A. Topel  
Joshua W. Resnik  
FLEISCHMAN AND WALSH, L.L.P.  
1400 16<sup>th</sup> Street, N.W.  
Washington, D.C. 20036  
(202) 939-7900 – Phone  
(202) 745-0916 – Fax

*Attorneys for KJZZ-TV*

/s/ Howard F. Jaeckel

Howard F. Jaeckel  
CBS CORPORATION  
51 W. 52 Street  
New York, New York 10019-6119  
(212) 975-4595 – Phone  
(212) 975-7292 – Fax

Mark W. Johnson  
CBS CORPORATION  
600 New Hampshire Avenue, N.W.  
Suite 1200  
Washington, D.C. 20037  
(202) 457-4513 - Phone  
(202) 457-4611 - Fax

*Attorneys for KUTV*

/s/ Marvin J. Diamond

Marvin J. Diamond  
LAW OFFICES OF MARVIN J. DIAMOND  
464 Common Street, No. 365  
Belmont, MA 02478  
(617) 484-4171 – Phone  
(617) 484-4941 – Fax

Robert B. Giese  
CHRIS-CRAFT BROADCASTING, INC.  
1101 Connecticut Avenue, N.W.  
Suite 1000  
Washington, D.C. 20036-4374  
(202) 828-2300 - Phone  
(202) 828-2322 - Fax

*Attorneys for KTVX*

March 12, 1999



**EXHIBIT A****DTV UTAH CHANNEL PLAN**

CALL SIGN	FCC CHANNEL PLAN		CHANNELS PAIRINGS AFTER SWAPS		PAIRINGS UNDER DTV UTAH CHANNEL PLAN	
	NTSC	DTV	NTSC	DTV	NTSC	DTV
<b>KBYU-TV (Pub) (Provo)</b>	*11	*39 <sup>†</sup>	*11	*39 <sup>†</sup>	*11	*44 <sup>††</sup>
<b>KJZZ-TV (UPN) (Salt Lake City)</b>	14	27 <sup>†</sup>	14	27 <sup>†</sup>	14	46 <sup>††</sup>
<b>KSL-TV (NBC) (Salt Lake City)</b>	5	38	5	38	5	38
<b>KTVX (ABC) (Salt Lake City)</b>	4	40	4	40	4	40
<b>KUED (Pub) (Salt Lake City)</b>	*7	*42	*7	*42	*7	*42
<b>KULC (Pub) (Ogden)</b>	*9	*34	*9	*35 <sup>†</sup>	*9	*36 <sup>††</sup>
<b>KUTV (CBS) (Salt Lake City)</b>	2	35 <sup>†</sup>	2	34	2	34
<b>KUWB (WBN) (Ogden)</b>	30	29 <sup>†††</sup>	30	17 <sup>†</sup>	30	48 <sup>††</sup>

<sup>†</sup> allotment removed under channel plan

<sup>††</sup> allotment added under channel plan

<sup>†††</sup> DTV assignment swapped per contract with KUPX (NTSC 16, Provo)

**Exhibit B**

**ENGINEERING STATEMENT  
SUPPORTING PETITION FOR RULE MAKING  
DTV UTAH  
SALT LAKE CITY, UTAH**

This Engineering Statement supports the Petition for Rulemaking filed by eight television stations in the Salt Lake City, Utah market (collectively, "DTV Utah").<sup>1</sup> The Petition requests that the Federal Communications Commission ("FCC") change the digital television ("DTV") allotment/assignment of KBYU-TV from channel 39 to channel 44, change the DTV allotment/assignment of KJZZ-TV from channel 27 to channel 46, change the DTV allotment/assignment of KULC from channel 35 to channel 36, and change the DTV allotment/assignment of KUWB from channel 17 to channel 48. The proposed channel changes are requested in order to permit these stations to co-locate at a single tower site. A detailed breakdown of the proposed changes is provided below.

**OVERVIEW OF DTV UTAH JOINT TOWER PROPOSAL**

The eight DTV Utah stations propose to co-locate on a new tower adjacent to the current KSL-TV site at Farnsworth Peak. In order to facilitate this joint tower, a new channel plan is being proposed. Although this channel plan can be achieved in part through use of the DTV channels allotted/assigned to the DTV Utah group, four of the stations need new DTV channels that are not currently in the FCC's DTV Table. Without these four new allotments/assignments, the joint tower plan cannot be implemented. In exchange for these four new DTV allotments/assignments, the DTV Utah stations would return four currently allotted/assigned DTV channels to the pool of unassigned channels.

**TECHNICAL PROBLEMS WITH FCC CHANNEL PLAN**

Use of the stations' existing channel assignments at the joint tower site would create interference problems among the DTV Utah stations and with other stations in the Utah market, would require at least three antennas, and would create a number of serious technical obstacles. First, the FCC DTV channel plan includes three adjacent-channel situations within the DTV Utah group (channels 34 and 35, channels 38 and 39, and channels 39 and 40). As a practical matter, these DTV adjacencies might preclude even a three-antenna joint tower implementation. Even if a three-antenna system could be designed to accommodate the stations' current channel assignments, technical analyses indicate that certain characteristics of the joint tower site

---

<sup>1</sup> These eight stations are NCE Station KBYU-TV (Provo, UT), Station KJZZ-TV (Salt Lake City, UT), Station KSL-TV (Salt Lake City, UT), Station KTVX (Salt Lake City, UT), NCE Station KUED (Salt Lake City, UT), NCE Station KULC (Ogden, UT), Station KUTV (Salt Lake City, UT), and Station KUWB (Ogden, UT).



preclude the construction of a three-antenna tower. The peak at the joint tower site is very narrow, preventing the use of a guyed system. A three-antenna tower would be too heavy to accommodate the 155 mile-per-hour wind-loading required at that site. In addition, the stand-alone joint tower will require a complex pendulum system to maintain its balance – otherwise, reception will be impaired. For these reasons, three antennas would render the joint tower project infeasible.

### **PROPOSED CHANNEL PLAN**

The proposed channel plan is provided below. The new channel plan consists of three interdependent components. The first component consists of the three stations, KSL-TV, KTVX and KUED, that do not require channel changes. These stations will retain the DTV channels allotted/assigned to them by the FCC in the DTV Table, and will address any facilities or site changes required as a result of the joint tower project in their DTV applications. These changes comply with the FCC's interference criteria and do not require a rulemaking.

The second component is a channel swap between two stations in the DTV Utah group, KUTV (currently assigned DTV channel 35) and KULC (currently assigned DTV channel 34). The purpose of this channel swap is to permit KUTV to operate on channel 34 and to permit KULC to exchange its swapped channel (channel 35) for channel 36, which would be added to the DTV Table in this rulemaking.

The third component, which is the main focus of this Engineering Statement, involves the four stations that require new DTV channels that are not currently allotted/assigned to the DTV Utah group, and must be added to the DTV Table. In exchange for these four new allotments/assignments, these four stations – KBYU-TV, KJZZ-TV, KULC, and KUWB – would relinquish their current DTV allotments/assignments, which either were assigned to them in the FCC's DTV Table or were obtained through intra-market channel swapping arrangements.

Call Sign	City/State	<b><u>Proposed DTV Utah Channel Pairings</u></b>	
		NTSC	DTV
KUTV	Salt Lake City, UT	2	34
KTVX	Salt Lake City, UT	4	40
KSL-TV	Salt Lake City, UT	5	38
KUED	Salt Lake City, UT	7	42
KULC	Ogden, UT	9	36
KBYU-TV	Provo, UT	11	44
KJZZ-TV	Salt Lake City, UT	14	46
KUWB	Ogden, UT	30	48

## **PARAMETERS FOR PROPOSED COMMON FACILITY**

The proposed reference site for the joint tower is at Farnsworth Peak. All eight stations would be accommodated on two stacked antennas. The parameters for the proposed joint tower are as follows:

Location: 40-39-34 N  
112-12-06 W

Height: Channels 36, 40, 44, 48 – 2820 m RCAMSL, 1245 m HAAT  
Channels 34, 38, 42, 46 – 2830 m RCAMSL, 1255 m HAAT

ERP: The stations' original allotment/assignment ERP values will be retained at the stations' new joint tower facilities, except that stations with allotted powers below 200 kW will be increased to 200 kW.

A map and site plan of the joint tower site are attached as Figures 1 and 2.<sup>2</sup> A diagram of the proposed joint tower is provided as Figure 3.

Four primary objectives were considered in developing the new channel plan. The first objective was to minimize interference to other full service analog and digital stations. The second objective was to allow for an antenna configuration that would minimize cost and that could be implemented at the KSL-TV site. The third objective was to avoid an adjacent channel interference problem created by the previous channel swap between KUWB and KUPX. The fourth objective was to avoid use of adjacent DTV channels by the eight DTV Utah stations, because it is problematic to combine adjacent channels on a single antenna and because of concerns about adjacent channel interference.

In developing the optimal channel arrangement to serve these objectives, DTV Utah to the extent possible used DTV channels already allotted and assigned to DTV Utah stations. Using these allotments/assignments as a base, DTV Utah sought to limit the spread between the lowest and highest channels, so that the plan could be implemented with two, rather than three, antennas. As explained above, a three-antenna tower structure could not be implemented at the Farnsworth Peak site. Therefore, it was determined that a group of either contiguous even or odd channels would yield the optimum plan. Because of other analog and digital channel assignments in the area, the lowest channel that would yield the desired plan is channel 34. Starting with channel 34 it is possible to assign each of the following even channels making the highest assignment channel 48. One antenna will support channels 34, 38, 42 and 46, while the other will support channels 36, 40, 44 and 48.

---

<sup>2</sup> In Figure 1, "E" references existing facilities and "N" references the proposed new DTV Utah facilities. Figure 2 references 10 stations because the tower has been designed to permit expansion.

## **BENEFITS OF JOINT TOWER PLAN**

The proposed channel plan accommodates all eight stations with only two antennas, permitting a sleek, stable, safe, efficient and economical tower design that will be easy to maintain. The plan would eliminate the DTV channel adjacencies and create an elegant system whereby the eight stations in the DTV Utah group would occupy every other DTV channel from channel 34 to channel 48. One antenna would support channels 34, 38, 42 and 46, while the other would support channels 36, 40, 44, and 48. This carefully designed, symmetrical system would avoid interference obstacles presented by the current channel allotments/assignments, and would facilitate an optimized tower structure. Under the proposed channel plan, there will be less interference, less wasted power, less risk of multipath problems, and more tightly shaped coverage contours. The new channel plan will permit the DTV Utah joint tower project to be implemented quickly, efficiently, and cost-effectively.

## **INTERFERENCE STUDIES OF JOINT TOWER PLAN**

After discussions with FCC staff, it was determined that stations may retain their allotted power at a higher HAAT provided the *de minimis* interference criteria are satisfied. Therefore, the proposal was analyzed assuming that the stations would operate at the greater of their original (*i.e.*, pre-channel swaps) allotted/assigned ERP or 200 kW. In conducting the *de minimis* interference analyses, it was assumed that each of the stations would operate with a non-directional antenna pattern.<sup>3</sup> The analyses confirmed that the eight DTV Utah stations, operating at the proposed joint tower site, on the proposed channels, at the proposed heights and powers, would cause no unacceptable interference to the analog or digital operations of any full power television station. Figure 4 provides a summary of the results of the *de minimis* interference analyses, which were performed in the manner prescribed by the FCC.

Analyses also were performed to determine the predicted coverage of each of the stations and to confirm that each station would provide the required level of coverage over the city license.

In addition to performing the *de minimis* interference analyses for the existing analog stations and paired DTV allotments, the two DTV vacant allotments at Monticello, Utah (channel 41) and Cedar City, Utah (channel 44) were also considered. Since the distance from the proposed DTV Utah site to the reference coordinates for the Monticello allotment is 396 km, it is beyond the area of consideration for adjacent channel protection.

The Cedar City allotment is located 339 km from the DTV Utah site and therefore is within the co-channel consideration area. Since there is no paired NTSC station for the Cedar City

---

<sup>3</sup> The allotments/assignments requested herein and the *de minimis* interference analyses are based on non-directional antenna patterns. DTV Utah requests that the requested channels be allotted/assigned on this basis (*i.e.*, presuming a non-directional antenna pattern). It is contemplated, however, that the stations will employ directional antenna patterns to minimize wasted power and multipath problems.

allotment and consequently no DTV facility parameters, an assumed facility was used for the purpose of the *de minimis* interference analysis. The assumed facility was placed at the allotment reference coordinates and was given a HAAT of 610 m and an ERP of 316 kW. Based on the assumed facility, no loss in service population is caused to the proposed KBYU channel 44. Likewise, the proposed KBYU-TV channel 44 causes no population loss to the Cedar City allotment.

All *de minimis* interference analyses were performed in the manner prescribed by the FCC Rules and Regulations and the Public Notice that addressed procedures for application filing and processing.

Studies also have been conducted to determine the impact of the proposal on translators and LPTVs, and to develop channel plans for these secondary services that would minimize or eliminate any loss of service. DTV Utah worked closely with the translator community to successfully develop a master translator plan, designed around the DTV Utah channel plan, that would preserve every translator in the State of Utah. A package of approximately 135 displacement relief applications are on file at the FCC to implement this master translator plan. DTV Utah also has examined the impact of the Plan on the LPTV community, and is pursuing engineering solutions to reasonably accommodate any LPTVs that might be adversely impacted by the proposed DTV Utah channel plan.

The proposed joint tower site is about 927 kilometers from the closest point of the Canadian border and 911 kilometers from the closest point of the Mexican border. The proposed joint tower site is 2743 kilometers from the National Radio Quiet Zone in Sugar Grove, West Virginia and is 590 kilometers from the Table Mountain Radio Quiet Zone in Colorado. The proposed joint tower site is 1043 kilometers from the FCC monitoring station in Douglas, Arizona and 1158 kilometers from the FCC monitoring station in Grand Island, Nebraska. These separations are great enough so that no coordination is needed with respect to the proposed DTV operations.

### **STATION-BY-STATION ANALYSIS OF PROPOSED NEW DTV CHANNELS**

A station-by-station analysis of the four stations seeking new DTV channels is provided below. (Station-specific analyses for the four stations that do not require new DTV allotments/assignments will be provided as required in their individual DTV applications.) As shown below, the requested DTV channels (channels 36, 44, 46, 48) can be substituted for the stations' existing channels (channels 17, 27, 35 and 39), allotted to their communities of license, and assigned to the existing licensees in compliance with Section 73.623 of the Commission's Rules.

The following interference analyses have been conducted using the procedures outlined in the FCC's OET Bulletin No. 69. Interference has been evaluated in terms of population, consistent with FCC procedures. The analyses demonstrate that the proposed DTV allotments/assignments for KBYU-TV, KJZZ-TV, KULC and KUWB will not cause more than *de minimis* interference to the analog or digital service of any other full service television station.

### **KBYU-TV (NTSC 11, Provo, Utah)**

The FCC allotted/assigned DTV channel 39 to KBYU-TV based on the reference site coordinates for KBYU-TV's analog operation (40-36-28 N, 112-09-33 W). The FCC assigned an ERP of 402.8 kW at an antenna HAAT of 896 meters for the channel 39 allotment.

DTV Utah proposes to change the DTV allotment of KBYU-TV to channel 44, in order to permit KBYU-TV to move its operations to the DTV Utah joint tower. The proposed DTV operation on channel 44 would operate with an ERP of 403.0 kW. The proposed HAAT is 1245 meters and the proposed reference coordinates are 40-39-34 N, 112-12-06 W.

	<b>Present</b>	<b>Proposed</b>
<b>DTV Channel</b>	Channel 39	Channel 44
<b>Power</b>	402.8 kW	403.0 kW
<b>HAAT</b>	896 meters	1245 meters
<b>Location</b>	40-36-28 N, 112-09-33 W	40-39-34 N, 112-12-06 W

The predicted coverage contour for KBYU-TV's proposed channel 44 DTV service is depicted in Figure 5. KBYU-TV's DTV operation on channel 44 at the proposed site would provide the FCC-required coverage of Provo, KBYU-TV's city of license. There is no major obstruction between the proposed joint tower site and Provo, in compliance with Section 73.625(a)(2) of the FCC rules.

Interference calculations for the proposed KBYU-TV DTV operation on channel 44 are summarized below.

<b>Station Analyzed</b>	<b>City, State</b>	<b>Channel</b>	<b>Percent New Interference</b>
KUWB(TV)	Ogden, UT	NTSC 30	0.0

As shown above, KBYU-TV's proposed channel 44 DTV operation would not cause more than 2% interference to the analog or digital operations of any other full power television station. In addition, the proposal would not result in more than 10% interference to any station. Therefore, the proposal complies with the FCC's 2%/10% *de minimis* interference standard.

### **KJZZ-TV (NTSC 14, Salt Lake City, Utah)**

The FCC allotted/assigned DTV channel 27 to KJZZ-TV based on the reference site coordinates for KJZZ-TV's analog operation (40-39-12 N, 112-12-06 W). The FCC assigned an ERP of 84.2 kW at an antenna HAAT of 1181 meters for the channel 27 allotment.

DTV Utah proposes to change the DTV allotment of KJZZ-TV to channel 46, in order to permit KJZZ-TV to move its operations to the DTV Utah joint tower. The proposed DTV operation on

channel 46 would operate with an ERP of 200.0 kW. The proposed HAAT is 1255 meters and the proposed reference coordinates are 40-39-34 N, 112-12-06 W.

	<b>Present</b>	<b>Proposed</b>
<b>DTV Channel</b>	Channel 27	Channel 46
<b>Power</b>	84.2 kW	200.0 kW
<b>HAAT</b>	1181 meters	1255 meters
<b>Location</b>	40-39-12 N, 112-12-06 W	40-39-34 N, 112-12-06 W

The predicted coverage contour for KJZZ-TV's proposed channel 46 DTV service is depicted in Figure 6. KJZZ-TV's DTV operation on channel 46 at the proposed site would provide the FCC-required coverage of Salt Lake City, KJZZ-TV's city of license. There is no major obstruction between the proposed joint tower site and Salt Lake City, in compliance with Section 73.625(a)(2) of the FCC rules.

Interference calculations for the proposed KJZZ-TV DTV operation on channel 46 are summarized below.

<b>Station Analyzed</b>	<b>City, State</b>	<b>Channel</b>	<b>Percent New Interference</b>
NEW	Provo, UT	NTSC 32	0.0

As shown above, KJZZ-TV's proposed channel 46 DTV operation would not cause more than 2% interference to the analog or digital operations of any other full power television station. In addition, the proposal would not result in more than 10% interference to any station. Therefore, the proposal complies with the FCC's 2%/10% *de minimis* interference standard.

#### **KULC (NTSC 9, Ogden, Utah)**

The FCC allotted/assigned DTV channel 34 to KULC based on the reference site coordinates for KULC's analog operation (40-36-30 N, 112-09-34 W). The FCC assigned an ERP of 304.0 kW at an antenna HAAT of 893 meters for the channel 34 allotment.

Through a private swapping arrangement, KULC has agreed to swap its channel 34 DTV allotment/assignment for KUTV's channel 35 DTV allotment/assignment. The purpose of this swap is to permit KUTV to conduct its DTV operations on channel 34, as specified in the DTV Utah channel plan, and to permit KULC to relinquish the channel 35 allotment/assignment in exchange for channel 36, which would be added to the FCC's DTV Table.

DTV Utah proposes to change the DTV allotment of KULC to channel 36, in order to permit KULC to move its operations to the DTV Utah joint tower. The proposed DTV operation on channel 36 would operate with an ERP of 304.0 kW. The proposed HAAT is 1245 meters and the proposed reference coordinates are 40-39-34 N, 112-12-06 W.

	<b>Present (post-swap)</b>	<b>Proposed</b>
<b>DTV Channel</b>	Channel 35	Channel 36
<b>Power</b>	737.0 kW	304.0 kW
<b>HAAT</b>	933.0 meters	1245 meters
<b>Location</b>	40-36-23 N, 112-09-47 W	40-39-34 N, 112-12-06 W

The predicted coverage contour for KULC's proposed channel 36 DTV service is depicted in Figure 7. KULC's DTV operation on channel 36 at the proposed site would provide the FCC-required coverage of Ogden, KULC's city of license. There is no major obstruction between the proposed joint tower site and Ogden, in compliance with Section 73.625(a)(2) of the FCC rules.

Interference calculations for the proposed KULC DTV operation on channel 36 are summarized below.

<b>Station Analyzed</b>	<b>City, State</b>	<b>Channel</b>	<b>Percent New Interference</b>
NEW	Provo, UT	NTSC 32	0.0
KIDK-DT	Idaho Falls, ID	DTV 36	0.3

As shown above, KULC's proposed channel 36 DTV operation would not cause more than 2% interference to the analog or digital operations of any other full power television station. In addition, the proposal would not result in more than 10% interference to any station. Therefore, the proposal complies with the FCC's 2%/10% *de minimis* interference standard.

#### **KUWB (NTSC 30, Ogden, Utah)**

The FCC allotted/assigned DTV channel 29 to KUWB based on the reference site coordinates for KUWB's analog operation (40-39-25 N, 112-12-07 W). The FCC assigned an ERP of 60.3 kW at an antenna HAAT of 1190 meters for the channel 29 allotment.

Through a private swapping arrangement, KUWB agreed to swap its channel 29 DTV allotment/assignment for the channel 17 DTV allotment/assignment of KUPX (NTSC 16, Provo, UT). Applications currently are on file with the FCC reflecting this swap.

DTV Utah proposes to change the DTV allotment of KUWB to channel 48, in order to permit KUWB to move its operations to the DTV Utah joint tower. The proposed DTV operation on channel 48 would operate with an ERP of 200.0 kW. The proposed HAAT is 1245 meters and the proposed reference coordinates are 40-39-34 N, 112-12-06 W.

	<b>Present (post-swap)</b>	<b>Proposed</b>
<b>DTV Channel</b>	Channel 17	Channel 48
<b>Power</b>	253.0 kW	200.0 kW
<b>HAAT</b>	57 meters	1245 meters
<b>Location</b>	39-51-54 N, 111-53-39 W	40-39-34 N, 112-12-06 W

The predicted coverage contour for KUWB's proposed channel 48 DTV service is depicted in Figure 8. KUWB's DTV operation on channel 48 at the proposed site would provide the FCC-required coverage of Ogden, KUWB's city of license. There is no major obstruction between the proposed joint tower site and Ogden, , in compliance with Section 73.625(a)(2) of the FCC rules.


No *de minimis* interference calculations were conducted for the proposed KUWB DTV operation on channel 48 because no potentially affected stations were found in the required analysis area. Thus, KUWB's proposed channel 48 DTV operation complies with the FCC's interference criteria for new DTV allotments/assignments.



## CONCLUSION

The technical analyses described herein demonstrate that the proposed DTV allotments/assignments comply with the FCC's interference and coverage criteria. Any questions concerning this engineering analysis may be directed to the undersigned.

The foregoing Engineering Statement and attached Figures are true and correct to the best of my knowledge and belief.



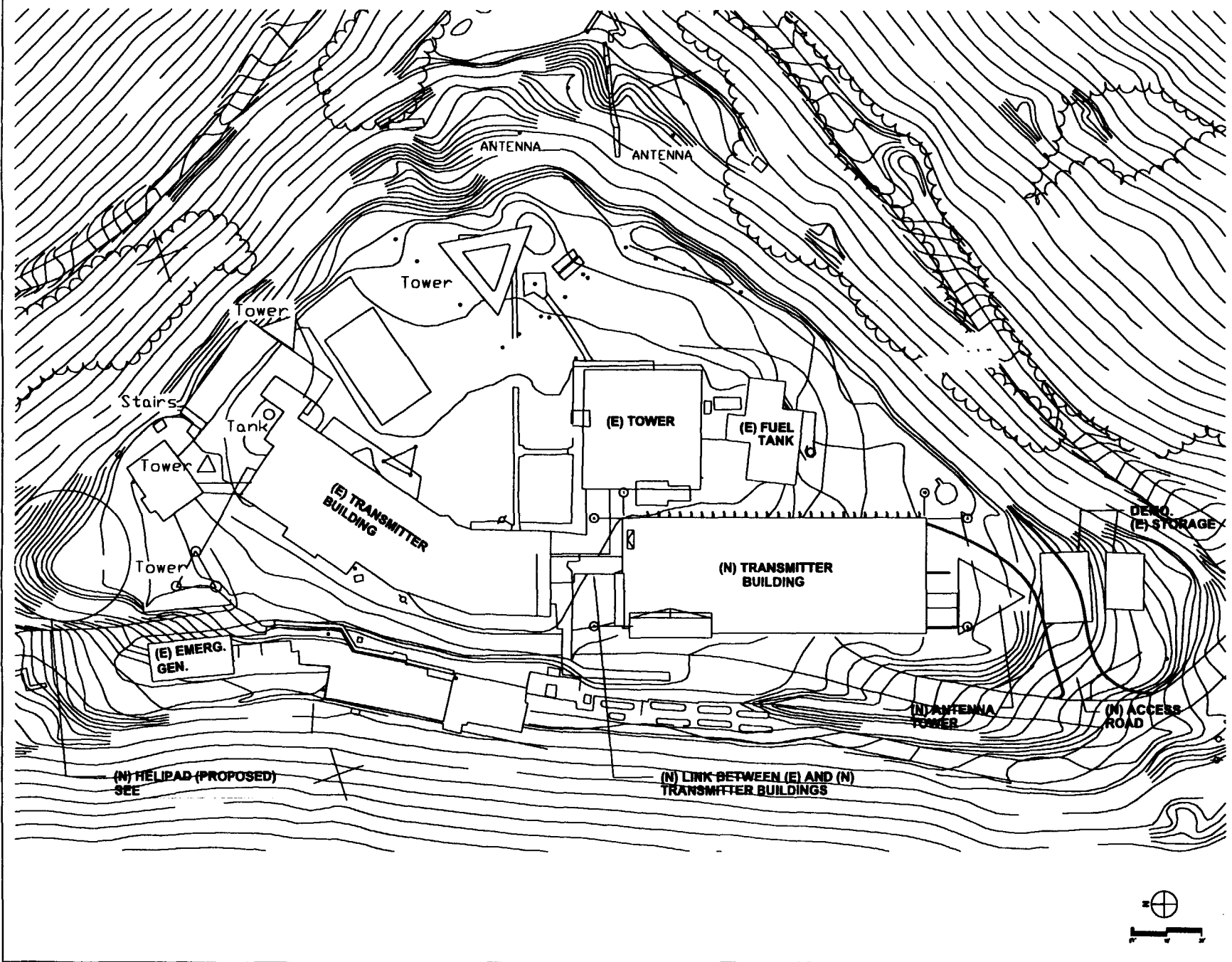
---

Louis Libin  
President  
Broad Comm Inc.  
949 Greenfield Road  
Woodmere, New York 11598  
Phone: (516) 374-6700, ext. 652  
Fax: (516) 374-9553

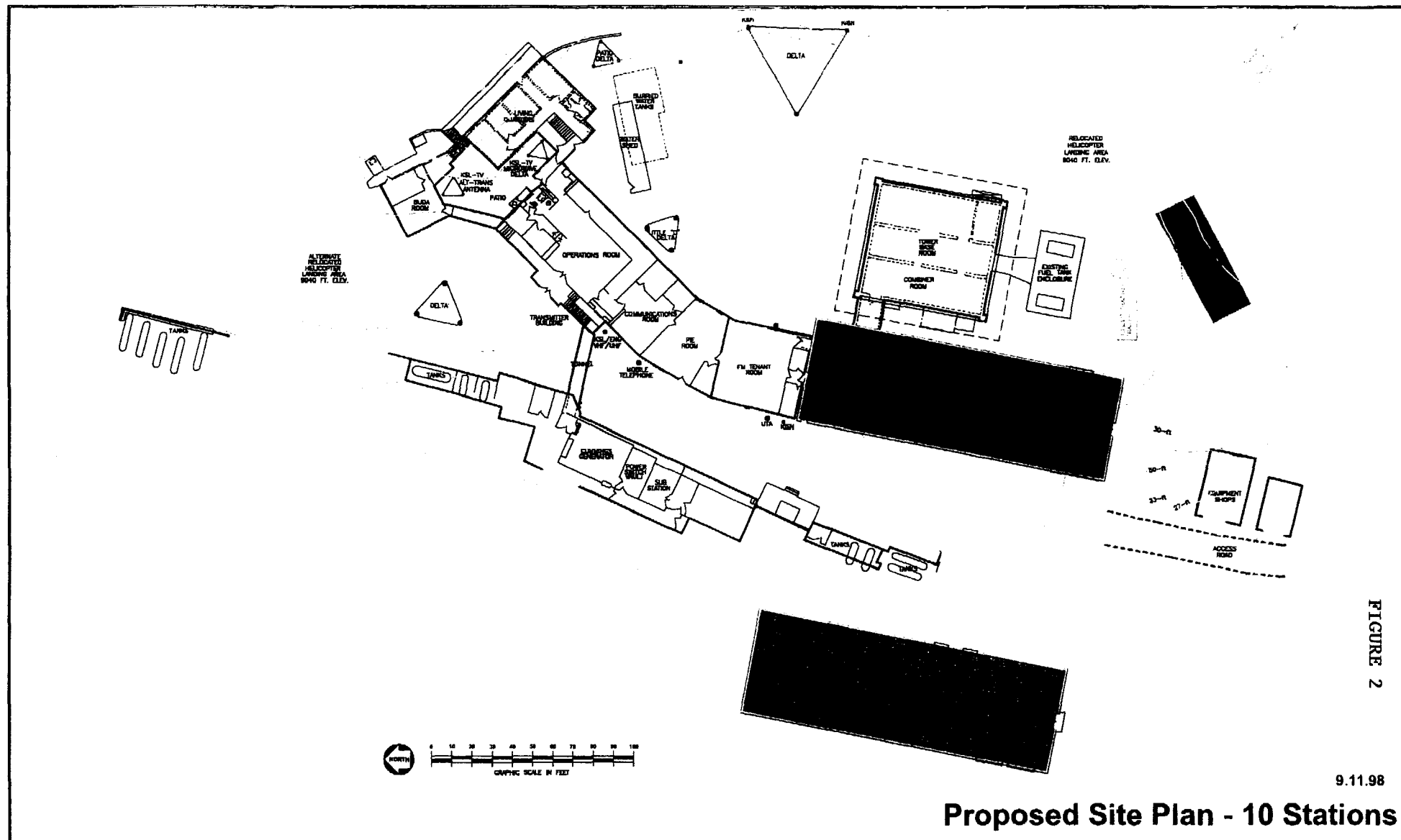
March 9, 1999

DTV Utah  
 Farnsworth Peak  
 Salt Lake City, Utah

FIGURE 1



revision	
2	2/10/00 revised for final
1	3/10/00 issued for construction
1	1/10/00 issued for final
no.	date description
issued revision	
design	project no.
drawn	date
checked	scale
title	version
SITE PLAN	
sheet A1.02	



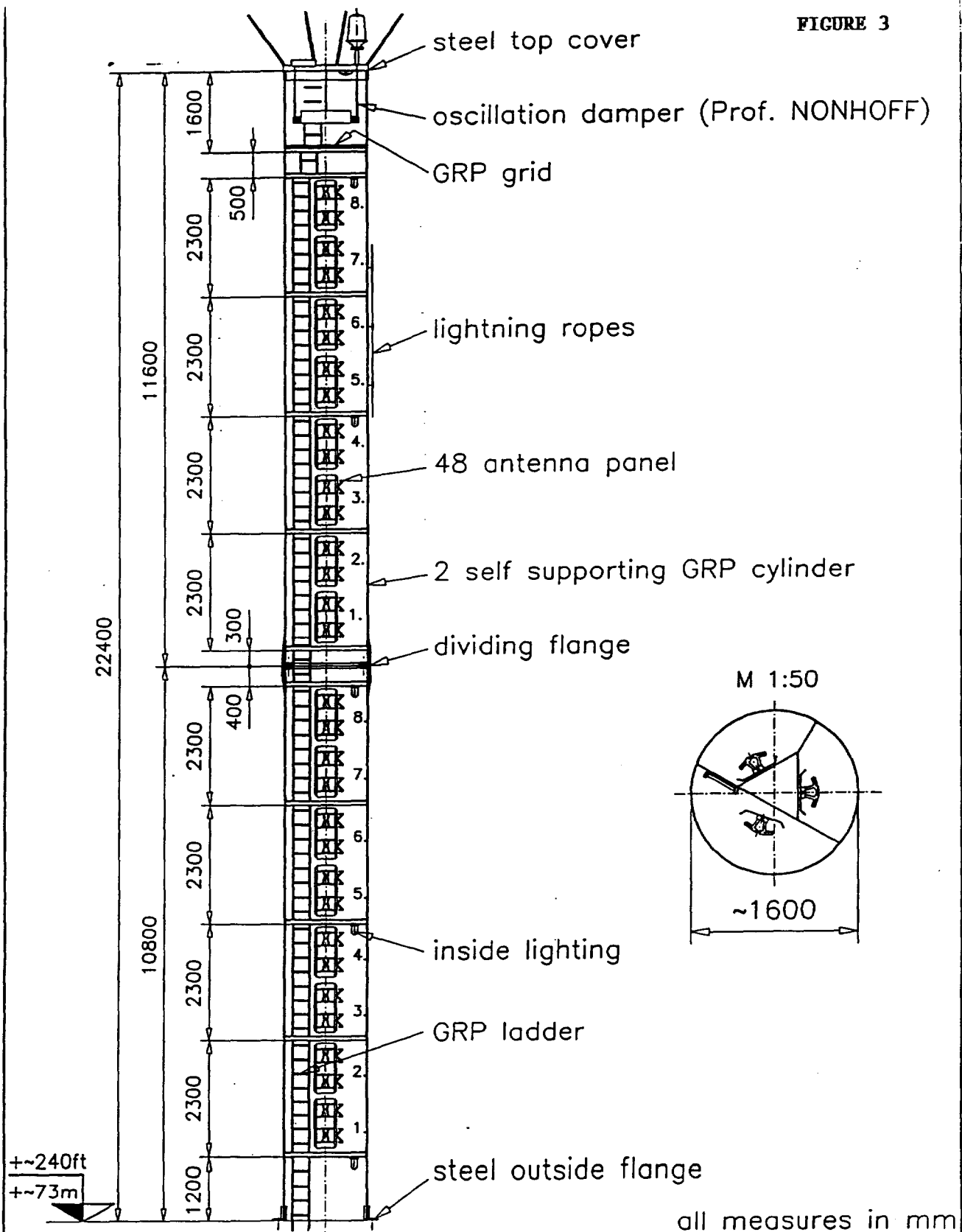
**9.11.98**

## Proposed Site Plan - 10 Stations

DTV Utah, LC      Farnsworth Peak

**Spectrum Solutions Group**

**FIGURE 3**



all measures in mm

Montagegew./hoisting weight:							Lackierung/enamel: _____				
Gesamtgew./total weight:											
					Tag	Name	TRANSMITTING ANTENNA SALT LAKE CITY			Maßstab  1:100	
					Bearb	21.12.98					S. Huber
					Gepr.	—//—					Geyer
							773 928			Blatt:  1.2	
							<b>KATHREIN</b>				
							83022 Rosenheim				
Aus- gabe	Änderung	Tag	Name								

FIGURE 4

## DTV Utah Plan Analysis

Analysis of KUTV-DT  
Salt Lake City, UTChannels  
Allotted/Proposed  
35 / 34Stations Analyzed  
Call Sign

City	State	Channel	FCC Plan Percent New IX to NTSC from DTV	DTV Utah Plan Percent New IX to NTSC from DTV	DTV Utah Plan Percent Change in DTV SERVICE
KTMW	SALT LAKE CITY	UT	20	0.2	0.0
NEW	SALT LAKE CITY	UT	26	0.0	0.0
KUWBTB	OGDEN	UT	30	0.0	0.0
NEW	PROVO	UT	32	0.1	0.0
KXTF-DT	TWIN FALLS	ID	34		0.0

Analysis KTVX-DT  
Salt Lake City, UTChannels  
Allotted/Proposed  
40 / 40Stations Analyzed  
Call Sign

City	State	Channel	FCC Plan Percent New IX to NTSC from DTV	DTV Utah Plan Percent New IX to NTSC from DTV	DTV Utah Plan Percent Change in DTV SERVICE
NEW	SALT LAKE CITY	UT	26	0.0	0.0
NEW	PROVO	UT	32	0.1	0.0

Analysis KSL-DT  
Salt Lake City, UTChannels  
Allotted/Proposed  
38 / 38Stations Analyzed  
Call Sign

City	State	Channel	FCC Plan Percent New IX to NTSC from DTV	DTV Utah Plan Percent New IX to NTSC from DTV	DTV Utah Plan Percent Change in DTV SERVICE
KAZG	OGDEN	UT	24	0.0	0.0
KUWBTB	OGDEN	UT	30	0.0	0.0

Analysis of KUED  
Salt Lake City, UTChannels  
Allotted/Proposed  
42 / 42Stations Analyzed  
Call Sign

City	State	Channel	FCC Plan Percent New IX to NTSC from DTV	DTV Utah Plan Percent New IX to NTSC from DTV	DTV Utah Plan Percent Change in DTV SERVICE
------	-------	---------	---	--	---

No Analysis Required

**Analysis KULC-DT  
Ogden, UT**
**Channels  
Allotted/Proposed  
34 / 36**
**Stations Analyzed  
Call Sign**

City	State	Channel	FCC Plan Percent New IX to NTSC from DTV	DTV Utah Plan Percent New IX to NTSC from DTV	DTV Utah Plan Percent Change in DTV SERVICE
PROVO	UT	32	0.1	0.0	
IDAHO FALLS	ID	36			0.3

**Analysis of KBYU-DT  
Provo, UT**
**Channels  
Allotted/Proposed  
39 / 44**
**Stations Analyzed  
Call Sign**

City	State	Channel	FCC Plan Percent New IX to NTSC from DTV	DTV Utah Plan Percent New IX to NTSC from DTV	DTV Utah Plan Percent Change in DTV SERVICE
OGDEN	UT	30	0.0	0.0	

**Analysis of KJZZ-DT  
Salt Lake City, UT**
**Channels  
Allotted/Proposed  
27 / 46**
**Stations Analyzed  
Call Sign**

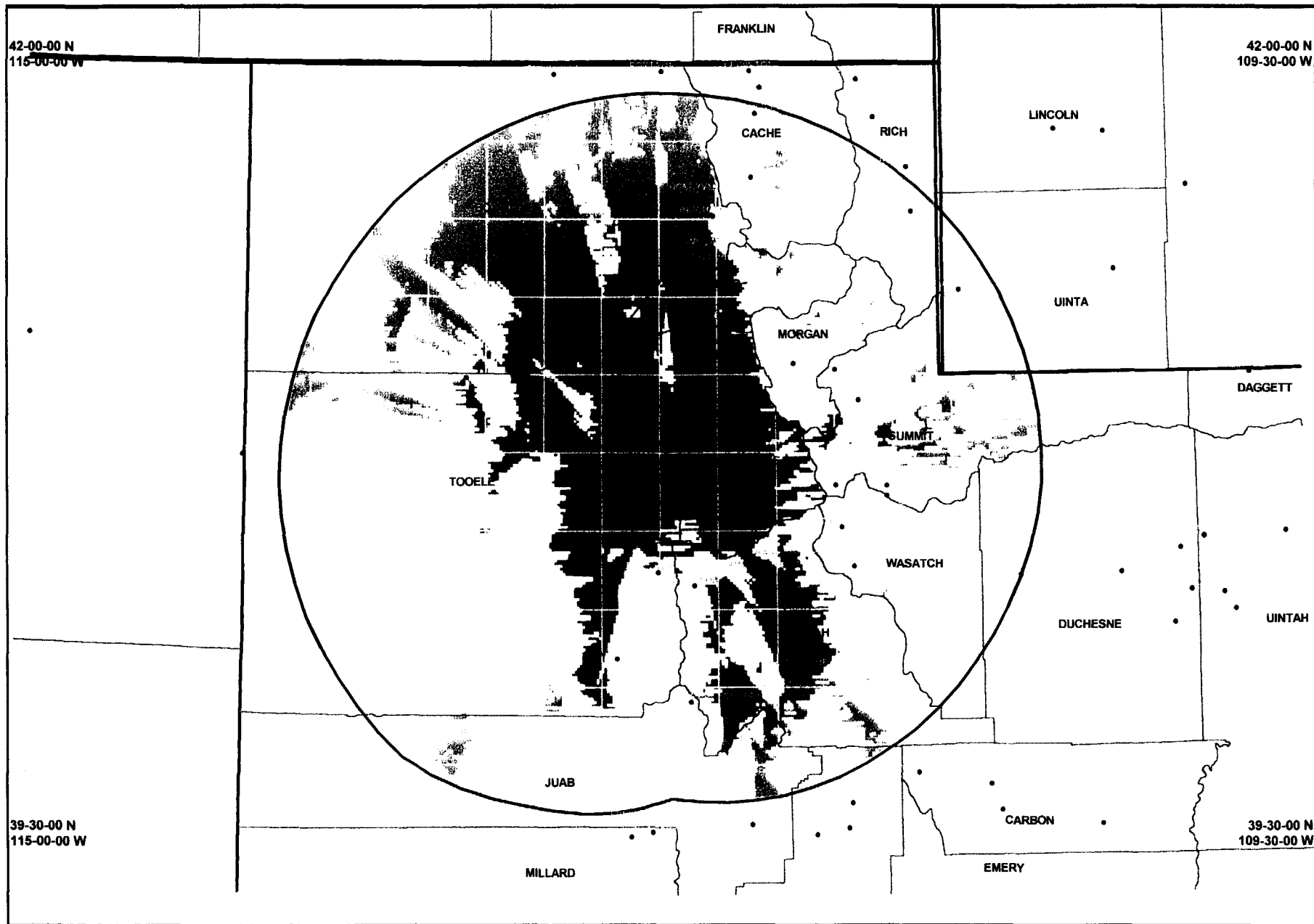
City	State	Channel	FCC Plan Percent New IX to NTSC from DTV	DTV Utah Plan Percent New IX to NTSC from DTV	DTV Utah Plan Percent Change in DTV SERVICE
PROVO	UT	32	0.1	0.0	

**Analysis of KUWB-DT  
Provo, UT**
**Channels  
Allotted/Proposed  
17 / 48**
**Stations Analyzed  
Call Sign**

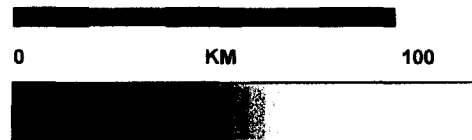
City	State	Channel	FCC Plan Percent New IX to NTSC from DTV	DTV Utah Plan Percent New IX to NTSC from DTV	DTV Utah Plan Percent Change in DTV SERVICE

No Analysis Required

Entires showing "No Analysis Required" indicates that no potentially affected stations were found in the required analysis area

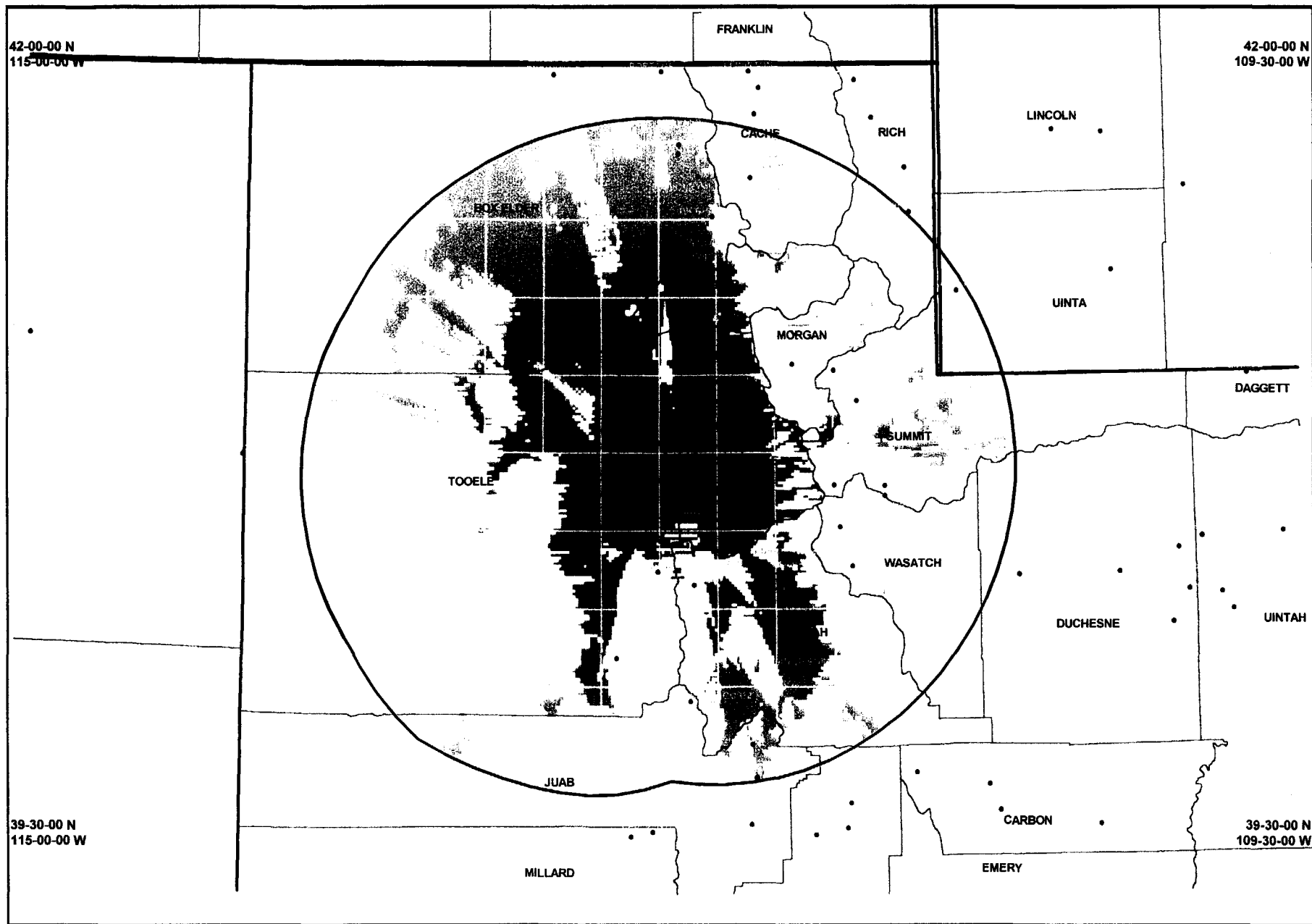


KBYU PROVO UT DTV Channel 44  
 Interference: NTSC = RED DTV = BLUE  
 KBYU New site 40-39-34 112-12-06 Non-DA  
 KBYU ERP: 403 kW RCAMSL: 2820 m  
 Prepared for DTV Utah  
 Prepared by TechWare, Inc. Chantilly, VA 703-222-5842



137.12 dBu      89.305 dBu      41.49 dBu (Noise Limited Service)  
 Predicted Longley-Rice Field

FIGURE 5



KJZZ SALT LAKE CITY UT DTV Channel 46

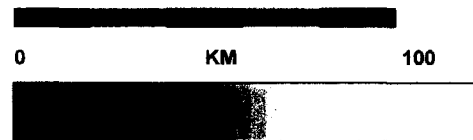
Interference: NTSC = RED DTV = BLUE

KJZZ New site 40-39-34 112-12-06 Non-DA

KJZZ ERP: 200 kW RCAMSL: 2830 m

Prepared for DTV Utah

Prepared by TechWare, Inc. Chantilly, VA 703-222-5842



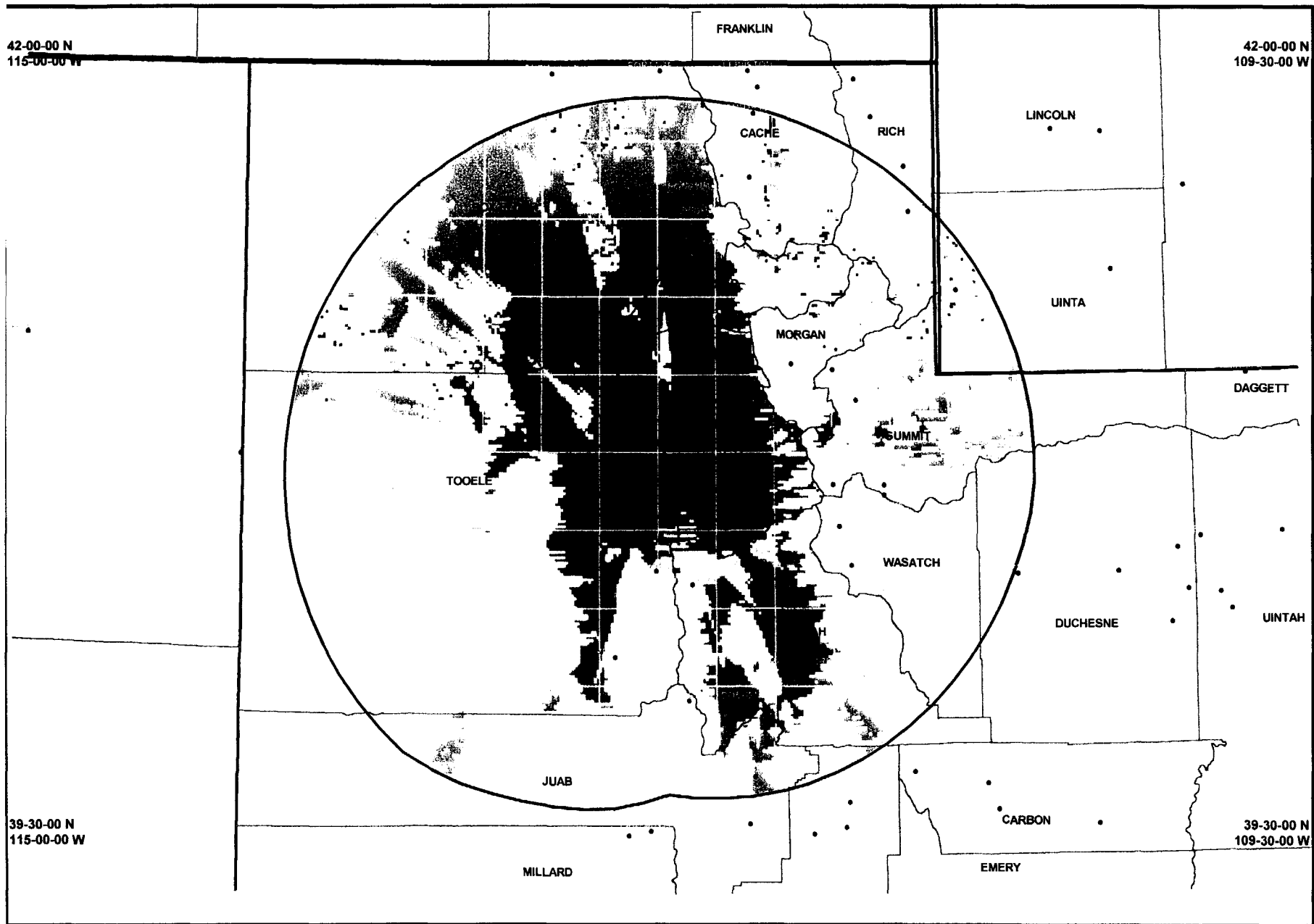
136.84 dBu

89.245 dBu  
Predicted Longley-Rice Field

41.65 dBu (Noise Limited Service)

FIGURE 6





KULC OGDEN UT DTV Channel 36  
 Interference: NTSC = RED DTV = BLUE  
 KULC New site 40-39-34 112-12-06 Non-DA  
 KULC ERP: 304 kW RCAMSL: 2820 m  
 Prepared for DTV Utah  
 Prepared by TechWare, Inc. Chantilly, VA 703-222-5842

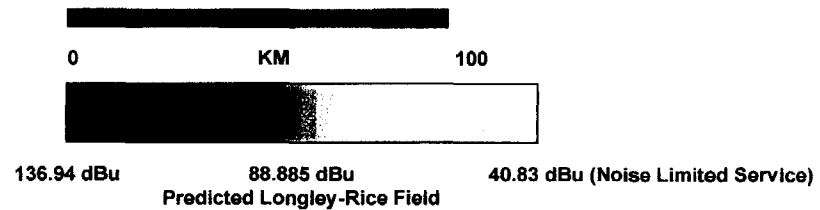
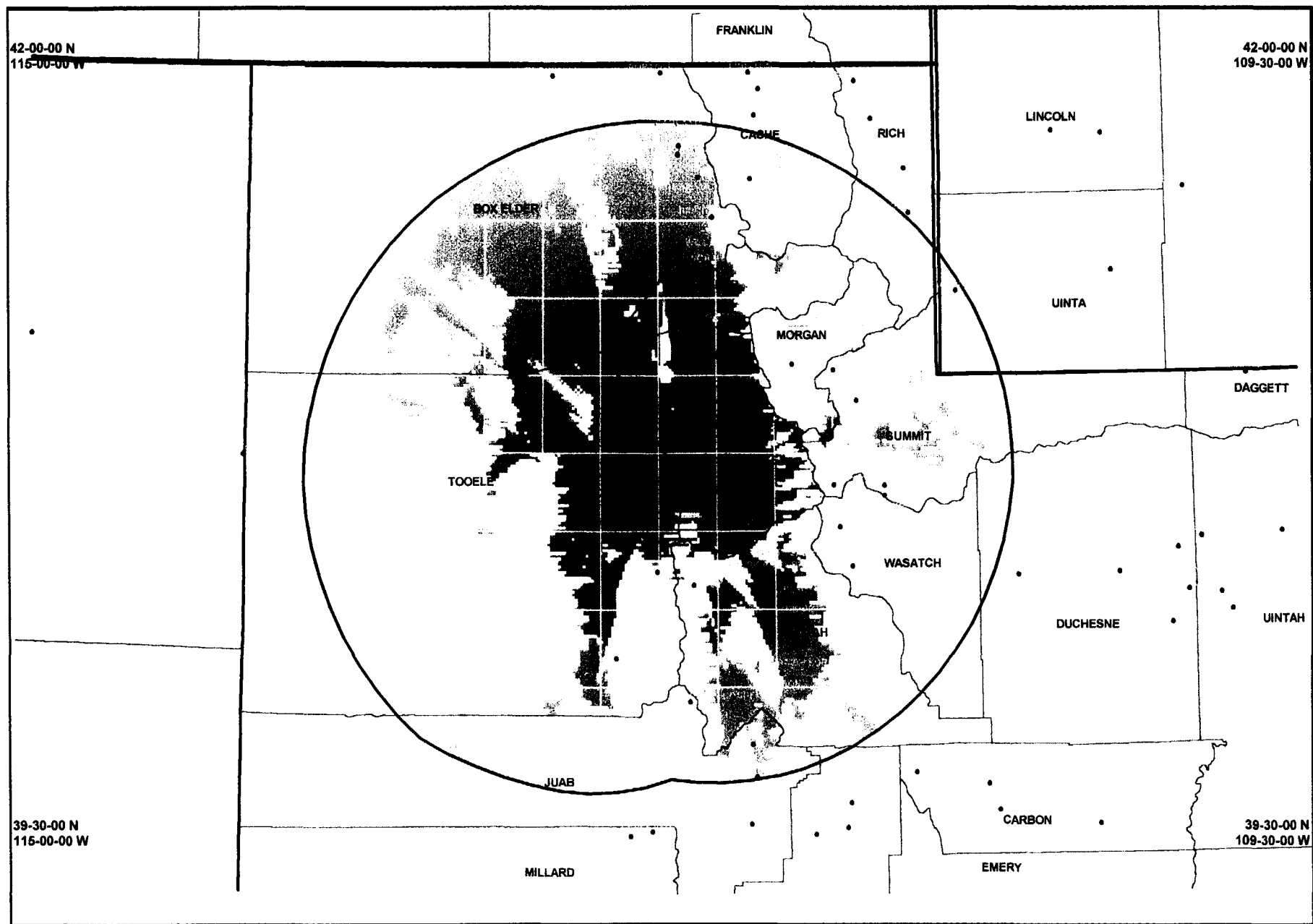


FIGURE 7



KUWB PROVO UT DTV Channel 48

Interference: NTSC = RED DTV = BLUE

KUWB New site 40-39-34 112-12-06 Non-DA

KUWB ERP: 200 kW RCAMSL: 2820 m

Prepared for DTV Utah

Prepared by TechWare, Inc. Chantilly, VA 703-222-5842

0 KM 100

138.48 dBu

90.145 dBu

41.81 dBu (Noise Limited Service)

Predicted Longley-Rice Field

FIGURE 8

**Exhibit C**

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of )  
 )  
Amendment of Section 73.622(b) ) RM \_\_\_\_\_  
Digital Television Table of Allotments )  
(Salt Lake City, Ogden and Provo, UT) )

NOTICE OF PROPOSED RULE MAKING

Adopted: \_\_\_\_\_, 1999

Released: \_\_\_\_\_, 1999

Comment Date:

Reply Comment Date:

By the Chief, Allocations Branch:

1. The Commission has before it the petition for rulemaking filed by eight television stations in the Utah market (collectively "DTV Utah" or "Petitioner")<sup>1</sup> requesting that the Commission make four changes to the DTV Table of Allotments ("DTV Table"). Specifically, Petitioner requests the Commission amend Section 73.622(b), the DTV Table of Allotments, to substitute Channel \*44 for Channel \*39 as the reserved noncommercial educational ("NCE") DTV channel assigned to KBYU-TV; to substitute Channel 46 for Channel 27 as the DTV channel assigned to KJZZ-TV; to substitute Channel \*36 for Channel \*35 as the reserved NCE DTV channel assigned to KULC;<sup>2</sup> and to substitute Channel 48 for Channel 17 as the DTV channel assigned to KUWB.<sup>3</sup>

---

<sup>1</sup> The licensees of these eight stations are Brigham Young University (licensee of NCE Station KBYU-TV, Provo, UT); Larry H. Miller Communications Corp. (licensee of Station KJZZ-TV, Salt Lake City, UT); Bonneville Holding Company (licensee of Station KSL-TV, Salt Lake City, UT); United Television, Inc. (licensee of Station KTVX, Salt Lake City, UT); University of Utah (licensee of NCE Stations KUED, Salt Lake City, UT and KULC, Ogden, UT); KUTV Associates. (licensee of Station KUTV, Salt Lake City, UT); and ACME Television Licenses of Utah, LLC (proposed licensee of Station KUWB, Ogden, UT).

<sup>2</sup> In order to accommodate the DTV Utah channel plan for the joint tower, NCE Station KULC is swapping its initial DTV allotment/assignment (Channel \*34) for Station KUTV's initial DTV allotment/assignment (Channel 35). Because of this swapping arrangement, KULC's current channel pairing would be NTSC \*9/DTV \*35. This channel swap may be accomplished without a rulemaking, by the stations filing appropriate DTV applications. See 47 C.F.R. §§ 73.622(c) and 73.623(f). The reason for this swap is that under the joint tower plan, KUTV will operate on DTV Channel 34 and KULC will operate on DTV Channel \*36, which must be added to the DTV Table as a substitute for Channel \*35.

<sup>3</sup> KUWB has entered into a private arrangement with KUPX (NTSC 16, Provo, UT) to swap its initial DTV allotment/assignment (Channel 29) for KUPX's initial DTV allotment/assignment (Channel 17). Both KUWB and KUPX have applications pending at the Commission to accomplish this swap (BPCDT-981116KE, BPCDT-980724KI).

2. In support of its proposal, Petitioner states that the proposed changes would make it possible to implement an engineering plan that would permit all eight stations – including three noncommercial educational stations – to conduct their digital operations from a joint transmitting tower, located at the current tower site of Station KSL-TV. Petitioner states that it invited all full power stations in the Salt Lake City area to participate in the DTV Utah joint tower project, but two stations – KUPX (Provo, UT) and KSTU (Salt Lake City, UT) – chose not to participate.

3. Petitioner emphasizes the interdependent nature of its proposal. Granting only some of the requested amendments to the DTV Table would not accomplish the Petitioner's objective of implementing a joint tower plan to accommodate the eight stations that have invested in this project. Therefore, the Commission will not evaluate the Petitioner's requests on a piecemeal, station-by-station basis. Rather, we will review the proposal as a whole and either grant all of the requested amendments to the DTV Table, or deny the petition in toto.

4. Petitioner asserts that its proposal is consistent with the Commission's rules and policies. Petitioner asserts that the requested DTV channels (Channels \*36, \*44, 46 and 48) can be substituted for the stations' existing channels (Channels 17, 27, \*35 and \*39), allotted to the communities specified above, and assigned to the existing licensees in compliance with Section 73.623 of the Commission's Rules. These four DTV allotments/assignments, indeed all eight DTV Utah stations, would have reference coordinates at KSL-TV's current site at Farnsworth Peak (40-39-34 N, 112-12-06 W). The four new allotments/assignments requested by Petitioner would operate at the following heights and powers: KBYU-TV (DTV \*44, 1245 m HAAT, 403.0 kW ERP); KJZZ-TV (DTV 46, 1255 m HAAT, 200.0 kW ERP); KULC (DTV \*36, 1245 m HAAT, 304.0 kW ERP); and KUWB (DTV 48, 1245 m HAAT, 200.0 kW ERP).

5. Petitioner asserts that its proposal makes it possible for eight full power digital television stations to serve their communities of license from a single transmitting tower. Petitioner states that the proposed changes are necessary to resolve potential interference problems and engineering obstacles that otherwise would preclude co-location of these eight stations. When the Commission made its initial DTV allotments/assignments, we assumed in the Salt Lake City market, as we did nationwide, that stations would be conducting their DTV operations from their existing analog transmitter sites. At the same time, we recognized that changes in sites would be appropriate for many DTV stations. While the DTV allotments/assignments provided for these stations in the DTV Table were appropriate for operations at the existing sites, co-location of the DTV Utah stations on Farnsworth Peak raises a number of technical obstacles that would be avoided or resolved by Petitioner's proposal. For this reason, the Commission believes that the changes in the allotments/assignments that Petitioner proposes may be warranted.

6. Petitioner asserts that proposed amendments to the DTV Table of Allotments will allow the construction of a joint tower to support all eight stations with only two antennas, permitting a stable, safe, efficient and economical tower design. Petitioner states that use of the stations' existing channel assignments at the joint tower site would create interference problems, would require at least three antennas, and would create a number of other technical obstacles. First, these stations' current DTV allotments/assignments include three adjacent-channel situations (Channels \*34 and 35, Channels 38 and \*39, and Channels \*39 and 40), that Petitioner asserts might preclude even a three-antenna joint tower implementation. Second, Petitioner asserts that even if a three-antenna system could be designed to accommodate the stations' current channel assignments, certain characteristics of the joint tower site preclude the

construction of a three-antenna tower. Third, Petitioner asserts that the joint tower project provides a number of other technical benefits. Petitioner states that without the requested amendments to the DTV Table, these benefits cannot be realized.

7. Petitioner states that co-location of the DTV Utah stations would serve the public interest and facilitate the speedy transition to DTV by reducing the transactional, construction and operating costs for all eight stations. Petitioner states that the joint tower project would enable those stations with later build-out deadlines to initiate digital operations earlier. Petitioner also notes that co-location on a single tower would result in the construction of fewer digital towers in Utah, and would facilitate DTV reception from rooftop antennas oriented towards the joint tower. This, in turn, will facilitate consumer interest in and access to DTV services.

8. Petitioner also asserts that its proposal would not result in harmful interference to the NTSC and DTV operations of other full power stations in the Utah market, and provides engineering analyses to support this assertion. Specifically, Petitioner has conducted a *de minimis* interference analysis for each of the proposed new allotments/assignments in accordance with the Commission's rules, and has found that the proposal would not result in any new interference to other full power stations.

9. In addition to performing the *de minimis* interference analysis to the existing analog stations and paired DTV allotments, Petitioner analyzed potential interference with the two DTV vacant allotments at Monticello, Utah (channel 41) and Cedar City, Utah (channel 44). Since the distance from the proposed DTV Utah site to the reference coordinates for the Monticello allotment is 396 km, it is beyond the area of consideration for adjacent channel protection. The Cedar City allotment is located 339 km from the DTV Utah site and therefore is within the co-channel consideration area. Since there is no paired NTSC station for the Cedar City allotment and consequently no DTV facility parameters, Petitioner conducted its analysis based on an assumed facility at the allotment reference coordinates with a HAAT of 610 m and an ERP of 316 kW. Based on the assumed facility, Petitioner determined that no loss in service population would be caused to the proposed KBYU-TV channel \*44 DTV facilities. Likewise, the proposed KBYU-TV channel \*44 DTV facilities would not cause any population loss to the Cedar City allotment.

10. In addition, Petitioner has worked closely with the translator community to mitigate any adverse impact on this service from the DTV transition. Working together, Petitioner and members of translator community developed a master translator plan, engineered around Petitioner's proposed DTV operations, that would preserve every translator in the State of Utah if the Petitioner's requested channel changes are granted. Pursuant to this master translator plan, a package of some 135 displacement relief applications have been filed with the Commission. We have been advised that Petitioner will also work with the LPTV community in order to ensure that any impact on LPTVs is reasonably addressed. Based on the foregoing, we tentatively conclude that Petitioner is working to reasonably accommodate the LPTVs and translators in surrounding areas to mitigate any potential adverse impact on these secondary services.

11. The Commission tentatively concludes that Petitioner's proposed changes would advance the goals of the DTV transition and the public interest. The joint tower project made possible by these changes represents the type of cooperative sharing arrangement encouraged by the Commission, and would achieve efficiencies and service benefits that will

benefit the public. In the *Fifth Report and Order* in the DTV allotments/assignments proceeding,<sup>4</sup> we stated that "some licensees may find it beneficial to develop partnerships with others to help make the most productive and efficient use of their channels, and *we will look with favor on such arrangements.*"<sup>5</sup> We explained that such arrangements could benefit broadcasters and the public and facilitate the DTV transition:

Broadcasters may find it useful to work with other broadcasters or others who have special expertise in exploiting digital technology. Parties could come together for the sharing of facilities, costs, and equipment, the development and provision of programming and service offerings, access to capital and financing, the establishment of business plans, and the like. Such arrangements will aid both broadcaster and public, by helping the broadcaster achieve the most competitive and beneficial business strategy and by ensuring for the public the best use of the digital spectrum, including not only the most efficient use of the spectrum but also the greatest array of valuable services.<sup>6</sup>

12. We seek comment on Petitioner's proposal (using the reference coordinates, heights and powers specified in paragraph 4 above) to substitute Channel \*44 for Channel \*39 as the reserved noncommercial educational DTV channel assigned to KBYU-TV; to substitute Channel 46 for Channel 27 as the DTV channel assigned to KJZZ-TV; to substitute Channel \*36 for Channel \*35 as the reserved noncommercial educational DTV channel assigned to KULC; and to substitute Channel 48 for Channel 17 as the DTV channel assigned to KUWB.

13. The proposal would amend the DTV Table of Allotments, Section 73.622(b), with respect to the Utah market in the following respects:

<u>Community</u>	<u>Channel No.</u>	
	<u>Present</u> <sup>7</sup>	<u>Proposed</u>
Ogden	29, *34	*36, 48
Provo	17c, *39	29, *44
Salt Lake City	27, 28, 35, 38, 40, *42	28, 34, 38, 40, *42, 46

<sup>4</sup> *Advanced Television Systems and Their Impact upon the Existing Television Broadcasting Service*, Fifth Report and Order, MM Docket No. 87-268, FCC 97-116, 12 FCC Rcd. 12809 (adopted Apr. 3, 1997).

<sup>5</sup> *Id.* at 12834 (emphasis added).

<sup>6</sup> *Id.*

<sup>7</sup> This column does not reflect the KUTV/KULC DTV channel swap or the KUPX/KUWB DTV channel swap. If the KUTV/KULC channel swap were reflected in the present DTV Table, Ogden would show a Channel \*35 DTV allotment and Salt Lake City would show a Channel 34 DTV allotment. If the KUPX/KUWB swap were reflected in the present DTV Table, Channel 17c would be allotted to Ogden (KUWB) and Channel 29 would be allotted to Provo (KUPX). Both channel swaps, along with the proposed amendments to the DTV Table requested by Petitioner, are reflected in the "Proposed" column.

14. The Commission's authority to institute rulemaking proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. In particular, we note that a showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

15. Interested parties may file comments on or before \_\_\_\_\_ and reply comments on or before \_\_\_\_\_, and are advised to read the Appendix for the proper procedures. Comments should be filed with the Secretary, Federal Communications Commission, Washington, D.C. 20554. Additionally, a copy of such comments should be served on the petitioner, or its counsel or consultant, as follows:

Jonathan D. Blake, Esq.\*  
Jennifer A. Johnson, Esq.\*  
Covington & Burling  
1201 Pennsylvania Avenue, N.W.  
P.O. Box 7566  
Washington, D.C. 20044-7566

\* will act as clearinghouse for counsel to the other signatories of the petition.

16. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rulemaking proceedings to amend the TV Table of Allotments, Sections 73.606(b) and 73.622(b) of the Commission's rules. *See Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rulemaking to Amend Sections 73.202(b), 73.604 and 73.606(b) of the Commission's Rules*, 46 FR 11549, February 9, 1981.

17. For further information concerning this proceeding, contact \_\_\_\_\_. For purposes of this restricted notice and comment rulemaking proceeding, and unless the Commission determines that public policy justifies modifying application of the *ex parte* rules applicable to this proceeding so that only "permit-but-disclose" procedures apply, members of the public are advised that no *ex parte* presentations are permitted from the time the Commission adopts a Notice of Proposed Rulemaking until the proceeding has been decided and such decision is no longer subject to reconsideration by the Commission or review by any court. Contacts with Commission staff regarding accommodations for translators and LPTVs that may be impacted by Petitioner's proposal are expressly excluded from the *ex parte* restrictions. An *ex parte* presentation is not prohibited if specifically requested by the Commission or staff for the clarification or adduction of evidence or resolution of issues in the proceeding. However, any new written information elicited from such a request or a summary of any new oral information shall be served by the person making the presentation upon the other parties to the proceeding unless the Commission specifically waives this service requirement. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.